

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 09-20491

v.

Hon. George Caram Steeh

CUSHMEER MUHAMMAD,

Defendant.

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ORDER DENYING MOTION TO
AMEND AS MOOT (ECF NO. 85)

On January 23, 2024, Defendant filed a motion for leave to amend his 28 U.S.C. § 2255 motion. The court's docket does not, however, reflect that a § 2255 motion was filed. Defendant was sentenced on January 27, 2022, to 21 months in custody for supervised release violations.

Defendant's motion for leave to amend requests that he be given credit for time served in federal custody against his state sentence. He also asks the court to "lift the federal detainer, remanding Petitioner to MDOC custody to serve the remainder of his concurrent sentences." However, the Bureau of Prison's website indicates that Defendant is no longer in BOP custody. Accordingly, his request to be remanded to MDOC custody is moot.

With respect to Defendant's sentence, the judgment provides that he was "sentenced to 21 months with credit for time served." ECF No. 83. The judgment does not specify that the federal sentence be served concurrently with Defendant's state sentence. Therefore, to the extent Defendant contends that he is entitled to concurrent credit for time served in BOP custody, his argument is without merit. *See Dotson v. Kizziah*, 966 F.3d 443, 445 (6th Cir. 2020). Additionally, a prisoner who wishes to challenge the BOP's calculation of his sentence must exhaust his administrative remedies and file a writ of habeas corpus under 28 U.S.C. § 2241, against the warden of the facility in which he is confined. *See McClain v. Bureau of Prisons*, 9 F.3d 503, 505 (6th Cir. 1993); *Roman v. Ashcroft*, 340 F.3d 314, 320 (6th Cir. 2003). Here, Defendant has been released from BOP custody, rendering his claim for sentencing credit moot. *See Dye v. Hemingway*, No. 23-CV-11120, 2023 WL 6931788, at *1 (E.D. Mich. Oct. 19, 2023).

Therefore, IT IS HEREBY ORDERED that Defendant's motion to amend is DENIED AS MOOT.

Dated: February 8, 2024

s/George Caram Steeh
HON. GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on February 8, 2024, by electronic and/or ordinary mail and also on Cushmeer Muhammad #597404, 320 N. Hubbard Street, St. Louis MI 48880.

s/LaShawn Saulsberry
Deputy Clerk